

DRUG CZAR: PROVISION FOR DCI AUTHORITIES

Bills: Byrd Draft §§1001 - 1014
Dole Draft §§1001 - 1015
H.R. 5210/H.Rept.No. 100-861 - Brooks Amendment

Issue:

Current law limits the authority of the Drug Policy Board/Chairman vis a vis the DCI:

Notwithstanding the authority granted in this section, the Board and the Chairman shall not interfere with routine law enforcement or intelligence decisions of any agency and shall undertake no activity inconsistent with the authorities and responsibilities of the Director of Central Intelligence under the provisions of the National Security Act of 1947, as amended, or Executive Order 12333. 21 U.S.C. §1203 (d)

Protects DCI's authorities in areas of: information protection, program management and budget autonomy

Information protection: retains existing DCI statutory authorities to protect sensitive intelligence sources and methods while providing intelligence information to anti-drug law enforcement

Program management: retains DCI's role as central manager of all national intelligence programs

Budget autonomy: retains DCI's authority to guide, coordinate and administer national intelligence budget in response to complex and continually changing requirements for intelligence support from the President and senior policy advisors

21 U.S.C. 1203(d) was in earlier drug czar bills: S. 789 (Biden bill) & H.R. 4868 (Hughes/McCollum)

Neither Byrd, Dole, Hughes or Brooks contain 21 U.S.C. §1203(d)

Byrd & Dole have information protection provisions: §1007 (a) (2) in both bills. Brooks and Hughes have none

None protect DCI program management or budget authority

Position:

Any drug czar legislation must contain 21 U.S.C. §1203(d)

R&D CENTERS

Bills: Byrd Draft: §4501
Not In Dole Draft or H.R. 5210/Amendments

§4501 would require drug czar to develop plan for President to submit to Congress for use of DoD and Community R&D facilities to support law enforcement efforts. GAO would be given oversight

Currently, application of Intelligence Community technology to law enforcement purposes is handled cooperatively between Community and law enforcement agencies through various administrative mechanisms.

No oversight role for the General Accounting Office.

Conference Report on FY '89 Intelligence authorization Bill (House Report No. 100-879) requests DCI, SecDef and the various law enforcement agencies to develop by 1 March 1989 a plan to expand cooperation even further. House Report No. 100-879, p. 22.

Issue:

§4501 is unnecessary, in light of conference report

GAO role would be objectionable intrusion of GAO into intelligence oversight.

Position:

§4501 should be deleted as unnecessary. Failing that, references to Community facilities should be dropped and/or provision giving GAO oversight should be deleted.

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Increased Use of Anti-Drug Covert Actions

Bill: H.R. 5210 - Broomfield Amendment

Alternate versions of Sense-of-Congress resolution that Intelligence Community should be more actively involved in combatting illicit international drug trafficking through the use of covert operations.

Issue: Covert action, by definition, is action not officially acknowledged by the United States Government.

Open, official reference/discussion discussion can be counterproductive to a particular use of covert action as well as to the conduct of covert actions generally.

There are a variety of channels between the Congress and the Executive in which such discussions can take place.

Position:

Broomfield amendment is objectionable since it specifically suggests that covert actions vis a vis international drug trafficking be initiated/increased.

Of the two versions, the second is the most objectionable.

A provision in any final version of the drug bill which calls upon the Intelligence Community to increase intelligence activities directed at combatting illicit international drug trafficking would be unobjectionable.

Alexander Amendment - "Anti-Stonewalling Act"

Bill: H.R. 5210 - Alexander Amendment

Requires an officer or employee in the Executive Branch to make disclosure of "illegal foreign drug activities" information through the agency head. Agency head, in turn, would disclose to law enforcement agency and, upon request, to the Congress and the General Accounting Office. The President must be notified of any determination of nondisclosure and must notify Congress of this. GAO could sue Executive Branch to obtain information.

Issue:

Amendment is objectionable for a variety of reasons:

Congressional reporting requirements:

Could compel disclosure of "raw intelligence reporting"
Allowing any committee to request information turns
all committees into "intelligence oversight"
committees for narcotics information purposes
Puts GAO into intelligence oversight business
Duplicates existing duty of DCI/Community to keep
intelligence committees "fully & currently informed"
Withholding mechanism is cumbersome &
institutionalizes Executive-Legislative Branch disputes
Term which "trips" obligation is vague, leading to
underreporting/overreporting with resulting problems

Executive Branch Reporting Requirements:

Duplicates long-standing, carefully-crafted, flexible
administrative mechanisms for reporting intelligence
information to law enforcement authorities: E.O.
12333 and other liaison mechanisms
Subordinates Presidential foreign relations powers and
duties to Presidential law enforcement powers and
duties, "tying the hands" of the President
Could be interpreted as requiring certain Community
units to turn over entire product to law enforcement
agencies

Position:

"Anti-Stonewalling Act" amendment is objectionable and should
not be passed in any form